

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MELISSA CANTU §
§
Plaintiff, § CIVIL ACTION NO. 21-cv-644
v. §
§
WALMART, INC. AND §
WAL-MART STORES TEXAS LLC § Jury Requested
Defendants §

NOTICE OF REMOVAL OF ACTION
UNDER 28 U.S.C. §§ 1332 AND 1446(A)

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW WALMART, INC. and WAL-MART STORES TEXAS LLC, Defendants in the above entitled and numbered cause, and file this Notice of Removal of the present cause from the 131st Judicial District Court of Bexar County, Texas, in which it is now pending, to the United States District Court for the Western District of Texas, San Antonio Division, showing the Court as follows:

A. BACKGROUND

1. This action is a civil personal injury lawsuit. This case was commenced by the filing of an Original Petition in Cause No. 2021CI11158 in the 131st Judicial District Court of Bexar County, Texas, on June 3, 2021. Pursuant to 28 USC §1446 (a), a copy of the Original Petition is attached hereto. *See attached Exhibit A.* No other process, pleadings or orders in this matter have been received by Defendants or its attorneys. Plaintiff states in her Original Petition that while shopping at the premises, she slipped and fell on a liquid substance on the floor. She then fell and impacted the floor causing her to suffer severe injuries.

2. Defendants were served with a copy of Plaintiff's Original Petition on June 22, 2021. A copy of the Citation served on Defendants, indicating the date of service, is attached hereto. *See attached Exhibit B.* Defendants timely filed an Answer to Plaintiff's Original Petition on June 15, 2021. *See attached Exhibit C.*

B. BASIS FOR REMOVAL

3. Defendants would show that Plaintiff alleges in her Original Petition that she has been and is now residing in Bexar County, Texas. Therefore, Plaintiff is a resident of Texas.

4. Walmart, Inc. and Wal-Mart Stores Texas, LLC was, at the time of the filing of Plaintiff's Original Petition, and is at the time of filing of this Notice of Removal, a limited liability company existing under the laws of the State of Delaware with its principal office and residence in Bentonville, Arkansas.

5. Complete diversity therefore exists between the adverse parties to this action under 28 U.S.C. §1332(a).

6. Plaintiff sets forth a specific amount of damages sought. Specifically, in Plaintiff's Original Petition paragraph 4.2, Plaintiff states "Plaintiff in good faith pleads that the value of this case at this time is more than one million dollars (\$1,000,000.00)." *See Exhibit A, ¶ 4.2.*

7. Upon filing of this Notice of Removal of this cause, written notice of the filing by Defendants to Plaintiff has been provided as required by law. Notice is also being filed with the Clerk of the State Court in which this cause was originally filed.

8. Based upon the foregoing, this Court has original jurisdiction for this matter pursuant to 28 U.S.C. § 1332, complete diversity of citizenship, and the matter is one which may be removed to this Court pursuant to 28 U.S.C. § 1446.

C. REMOVAL IS TIMELY

9. This Notice of Removal is timely filed in accordance with 28 U.S.C. §1446(b), in that it is filed within thirty (30) days of the service of Plaintiff's Original Petition on Defendants and within one year of the initial filing of the lawsuit.

D. FILING WITH STATE COURT AND NOTICE TO PLAINTIFF

10. Upon filing of this Notice of Removal of this cause, written notice of the filing by Defendants to Plaintiff will be provided as required by law. A copy of this Notice is also being filed with the Clerk of the State Court in which this cause was originally filed. A copy of all processes, pleadings, and orders has been filed separately with this Court pursuant to 28 U.S.C. § 1446(a).

E. JURY DEMAND

11. Defendant hereby requests a trial by jury.

F. PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendants pray for removal of the above entitled and numbered cause from the 131st Judicial District Court of Bexar County, Texas, in which it is now pending, to the United States District Court for the Western District of Texas, San Antonio Division, based on diversity of citizenship of the Parties.

Respectfully submitted,

COLVIN, SAENZ, RODRIGUEZ & KENNAMER LLP

By: /s/ Jaime A. Saenz

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ATTORNEY FOR DEFENDANTS

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document has been served on this 21st day of July, 2021 to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule 5.1(d).

/s/ Jaime A. Saenz

Jaime A. Saenz